IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE S.ANANDA REDDY**

**WRIT PETITION NO : 4282 of 1997**

Between:

1 M/s. Manju Electrical Industries Ltd., rep. by its Director, K.P.

Chandrahasan, Malmachanapati, Coimbatore, Tamilnadu.
2 The Branch Manager M/s Maju Electrical Industries Ltd.,
5-4-187/7, Karbala Maidan, M.G.road, Secunderabad.

**..... Petitioners**

And

1 The Addl. Industrial Tribunal-cum- Additional Labour Court.
Hyderabad.
2 K.P.Radhakrishnan S/o.P.Raghavan
Plot.No.6 Lakshminagar picket, Secunderabad.

**.....Respondents**

Petition under article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue writ of Mandamus or any other appropriate writ or order direction in the nature of a Writ declaring the order of the 1st respondent in M.P.No..52 of 1993 dt:26.6.1996 insofar as it relates to point No.2 as without jurisdiction, illegal, perverse, arbitrary and violative of the principles of natural justice and to consequently set aside the same.

Counsel for the Petitioner:MR.J.V.PRASAD

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: None appeared

**The Court made the following O R D E R:**

This writ petition is filed by M/s Manju Electrical Industries Limited and its Branch Manager aggrieved by the order passed by the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, in M.P. No.52 of 1993.

The second respondent herein was appointed as a Manager of the petitioner-Company and worked as such for some time. He filed the Miscellaneous Petition before the Industrial Tribunal claiming certain monetary benefits due to him on account of bonus, incentives, HRA, service compensation, wages from the date of termination till the date of payment of service compensation etc. The said petition was contested by the Company on the ground that the second respondent herein was not a workman in terms of Section 2(s) of the Industrial Disputes Act, 1947 (for short "the Act"). Thereafter, the Industrial Tribunal framed appropriate issues. The first issued is whether the petitioner before the Tribunal who is the second respondent herein is a workman or not. The Tribunal after considering, elaborately, the contentions of both sides, recorded its finding in para 14 of the order, holding that the second respondent herein who is the petitioner before it is not a workman. However, the Tribunal further proceeded with reference to the second issue as to the entitlement of the claims made by the second respondent herein and decided the same on merits. Aggrieved by that order, the petitioners have come up with the present writ petition.

The contention of learned counsel for the petitioners is that when once the second respondent was declared as not a workman in terms of Section 2(s) of the Act, the

Tribunal has no jurisdiction to proceed further and adjudicate upon the claims made by the second respondent. The said action of the Tribunal is illegal and without jurisdiction, and therefore, liable to be quashed.

Though the second respondent is served with a notice, he did not choose to appear and contest the matter. It is also stated that the second respondent did not file any writ petition assailing the finding of the Tribunal on issue No.1.

Under the above circumstances, it is clear that the finding recorded by the Tribunal on issue No.1 that the second respondent is not a workman has become final. When once such a finding has been recorded by the Tribunal, it ought not to have proceeded further, but, it erroneously proceeded further and decided various claims made by the second respondent herein, on merits. The said action of the Tribunal is clearly illegal and without jurisdiction. Hence, the findings recorded by the Tribunal on issue No.2 in M.P.No.52 of 1993 are set aside. The writ petition is accordingly allowed. No order as to costs.

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21-09-2004

vrn

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Tuesday, the 21st Day of September, 2004.

To

1 The Addl. Industrial Tribunal-cum- Additional Labour Court.
Hyderabad.

2. Two C.Cs to the Government Pleader for Labour, High Court of

A.P., Hyderabad (OUT)

3 Two C.D. copies